

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

Rec'd PCT/PTO 02 JUN 2005

PCT

To:
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Termijn:	22 02 2005 <i>wee.</i>
Rec.:	13 JAN. 2005
Opbergen:	

WRITTEN OPINION
(PCT Rule 66)

Date of mailing
(day/month/year) 07.01.2005

Applicant's or agent's file reference
P27048PC00/RR

REPLY DUE within 1 month(s) and 15 days
from the above date of mailing

International application No. PCT/NL 03/00860	International filing date (day/month/year) 04.12.2003	Priority date (day/month/year) 04.12.2002
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International Patent Classification (IPC) or both national classification and IPC
E01H11/00

Applicant
KINZO B.V. et al.

1. This written opinion is the **first** drawn up by this International Preliminary Examining Authority.
2. This opinion contains indications relating to the following items:
 - I Basis of the opinion
 - II Priority
 - III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV Lack of unity of invention
 - V Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI Certain documents cited
 - VII Certain defects in the international application
 - VIII Certain observations on the international application
3. The applicant is hereby **invited to reply** to this opinion.

When? See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension, see Rule 66.2(d).

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also: For an additional opportunity to submit amendments, see Rule 66.4. For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis. For an informal communication with the examiner, see Rule 66.6.

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.
4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is: 04.04.2005

Name and mailing address of the international preliminary examining authority:



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I. Basis of the opinion

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed"*):

Description, Pages

1-6 as originally filed

Claims, Numbers

1-12 as originally filed

Drawings, Sheets

1/3-3/3 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- the language of publication of the international application (under Rule 48.3(b)).
- the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- contained in the international application in written form.
- filed together with the international application in computer readable form.
- furnished subsequently to this Authority in written form.
- furnished subsequently to this Authority in computer readable form.
- The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- the description, pages:
- the claims, Nos.:
- the drawings, sheets:

5. This opinion has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

6. Additional observations, if necessary:

V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. Statement**

Novelty (N)	Claims	1,6,7
Inventive step (IS)	Claims	2-5,8-12
Industrial applicability (IA)	Claims	

2. Citations and explanations

see separate sheet

Re Item V

Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. The following documents are referred to in this written opinion; the numbering will be adhered to in the rest of the procedure:

P1: DE 90 00 712 U (RICHARD RUPPRECHT) 29 March 1990 (1990-03-29)

D2: DE 298 22 658 U (KNESE HERMANN) 4 March 1999 (1999-03-04)

D3: ER-A-1 345 739 (RAYMOND ANGENEAU) 13 December 1963 (1963-12-13)

D4: DE 195 05 156 A (MATTHIES HANS JUERGEN) 22 August 1996 (1996-08-22)

2. Document D1 is considered to represent the most relevant state of the art.

2.1 **D1 discloses (cf. page 4, lines 19-31, figure 3) a rotary device for removing weeds from joints in a paved area, comprising:**

- an elongate frame 2 which is provided with a handle 7;
- a drive unit 3a mounted on the frame 2;
- a brush element 5 which is connected to the drive unit 3a in such a manner that it can be driven in rotation about an axis of rotation which extends substantially in a direction which is transverse with respect to the frame 2; and
- a guide wheel 9 coupled to the frame 2, the guide wheel 9 and the brush element 5 being provided on either side of the bottom end of the frame 2,
- wherein the distance between the guide wheel 9 and a centre axis at the frame 2 is at least double the distance between the brush element 5 and the centre axis of the frame 2.

Thus, the combination of features of independent claim 1 is entirely disclosed by the device described in D1. Therefore, the subject-matter of claim 1 is not new (Article 33 (2) PCT).

2.2. Dependent claims **2** to **12** do **not** appear to contain any additional features which, in combination with the features of any claim to which they refer, are either **new** or involve an **inventive** step with respect to the prior art named in the present report (Article 33(2) and (3) PCT).

The reasons therefore are that the additional features of the said claims are

- either directly known from document D1,
- or are a combination of features obvious to the man skilled in the art in consideration of the disclosure of the prior art named in the present proceedings,
- or they concern only minor modifications which lie within the normal practice of the man skilled in the art.

In particular, reference is made to the following:

Claims 2,3 cf. D1 In D1, it is known (cf. page 2, line 38-page 3, line 2) that different types of driving units can be used and that the driving unit can either be mounted on top of the frame (cf. figure 1) or on its side (cf. figures 3 and 4). It is further known that the addition of one guide wheel at the bottom of the frame is helpful for guiding the cleaning device when cleaning joints near the sideboard of the road (cf. page 3, lines 4-14 and figure 3). It would thus be obvious to the skilled person, namely when the same result is to be achieved by

the device of figure 1 when cleaning joints near the sideboard of the road, to add a guide wheel to the frame disclosed on figure 1 - in the same way as the guide wheel was added to the frame of figure 3-, thus arriving, without the exercise of inventive skill, to a rotary device according to claims 2 and 3.

Claims 4,5,11	cf. D1	Even if no distance is disclosed in D1, it is considered that in view of figure 3, the distances according to claims 4, 5 and 11 would be obvious choices of the skilled man.
Claim 6	cf. D1	Figure 4
Claim 7	cf. D1	Figure 4
Claims 8,9,10		Those claims are considered to contain just simple constructional features lying within the technical abilities of the skilled person or being already known from the cited prior art.

3. The subject-matter according to any of claims 1 to 12 is industrially applicable (Article 33 (4) PCT).

Miscellaneous:

4. If new claims are filed, the **description** must be brought into conformity with the new claims to be filed (Rule 5.1(a)(iii) PCT); care should be taken during revision, especially of the introductory portion including any statements of problem or advantage, not to add subject-matter which extends beyond the content of the application as originally filed (Article 34(2) PCT).
5. To meet the requirements of Rule 5.1(a)(ii) PCT, document D1 should be identified in the **description** and the relevant background art disclosed therein should be briefly discussed.
6. The definition of the **problem** underlying the invention should be presented in the **description** in such terms that its solution can be better understood in view of the disclosure of document D1 (Rule 5.1(a)(iii) PCT).
7. In order to expedite the procedure the applicant is requested to indicate with his reply the locations in the application as originally filed of the passages forming a **basis for the amendments**.
8. The applicant is requested to file amendments by way of replacement pages in the manner stipulated by Rule 66.8(a) PCT.
9. Moreover, the applicant's attention is drawn to the fact that, as a consequence of Rule 66.8(a) PCT the examiner is not permitted to carry out any amendments under the PCT procedure, however minor these may be.